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PRODUCTIONS CO. LTD.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

UM CORPORATION, a Japanese
corporation,

Plaintiff,

vs.

TSUBURAYA PRODUCTIONS CO.
LTD., a Japanese corporation,

Defendant.

CASE NO. 2:15-cv-03764-AB-AJW

**DECLARATION OF DANIEL C.
POSNER IN SUPPORT OF
DEFENDANT AND
COUNTERCLAIMANT
TSUBURAYA PRODUCTIONS CO.
LTD.'S RESPONSE TO JANUARY
19, 2016 ORDER TO SHOW CAUSE**

Trial Date: April 18, 2017

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TSUBURAYA PRODUCTIONS CO.
LTD., a Japanese corporation,

Counterclaimant,

vs.

UM CORPORATION, a Japanese
corporation; ULTRAMAN USA, INC.,
a California corporation; SOMPOTE
SAENGDUENCHAI, a Thai individual;
GOLDEN MEDIA GROUP, INC., a
California corporation; TIGA
ENTERTAINMENT COMPANY,
LTD., a Hong Kong corporation; and
DOES 1-10,

Counterdefendants.

Judge: Hon. André Birotte, Jr.

Trial Date: April 18, 2017

DECLARATION OF DANIEL C. POSNER

I, Daniel C. Posner, declare as follows:

1. I am a member of the bar of the State of California and a partner at Quinn Emanuel Urquhart & Sullivan, LLP, attorneys for defendant and counterclaimant Tsuburaya Productions Co. Ltd. (“Tsuburaya”). I make this declaration of personal, firsthand knowledge, and if called and sworn as a witness, I could and would testify competently thereto.

2. On or around September 22, 2015, after Tsuburaya filed its Counterclaims in this action (Dkt. 19) and the Court issued the Summons (Dkt. 26), I engaged in telephone and e-mail discussions with Richard Zaitlen, counsel for plaintiff and counter-defendant UM Corporation (“UMC”), regarding whether Mr. Zaitlen and his firm would represent in this action any or all of counter-defendants Golden Media Group, Inc. (“Golden Media”), TIGA Entertainment Company, Ltd. (“TIGA”) and Sompote Saengduenchai (“Sompote”), and, if so, whether he would accept service of the Counterclaims on behalf of those parties.

3. In late September 2015, Mr. Zaitlen notified me that his firm would not represent Sompote in this action, but that he needed more time to consider whether his firm would represent Golden Media and/or TIGA. On October 8, 2015, Mr. Zaitlen notified me that his firm would represent, and accept service on behalf of, Golden Media, but not TIGA.

4. Once we had determined that neither TIGA nor Sompote would be represented by Mr. Zaitlen’s firm, my firm commenced the process of attempting to serve those parties directly. Because TIGA is a corporation residing in Hong Kong, and Hong Kong is a signatory to the Hague Service Convention, service of TIGA would need to be completed pursuant to the Hague Convention. In contrast, because Sompote is a resident of Thailand, and Thailand is not a signatory to the Hague Convention, Sompote would need to be served personally in Thailand.

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1 5. On or around October 8, 2015, my firm engaged the services of a
2 process service company called First Legal Investigations to assist with service.
3 Russell Ortiz from First Legal Investigations was my firm's primary point of
4 contact. In coordination with First Legal Investigations, my firm had the
5 Counterclaims translated into Chinese (for TIGA) and Thai (for Sompote).
6 Subsequently, my firm closely monitored First Legal Investigations' attempts to
7 serve TIGA and Sompote with the Counterclaims.

8 6. With respect to TIGA, it is my understanding that First Legal
9 Investigations mailed the Counterclaims (and related documents) to the Central
10 Authority in Hong Kong, as required by the Hague Convention, on or about October
11 22, 2015. Subsequently, I received periodic updates from First Legal Investigations
12 regarding the status of service on TIGA. It was my understanding that the process
13 of serving a party in Hong Kong pursuant to the Hague Convention typically takes
14 at least 2-3 months.

15 7. On January 27, 2016, I received a package from the Chief Secretary for
16 Administration of the Government of The Hong Kong Special Administrative
17 Region, Administration Wing, which included a cover letter stating that TIGA was
18 served with the Summons and Counterclaims on December 14, 2015. This
19 correspondence was the first notification my firm received that TIGA had been
20 served. Tsuburaya filed a Proof of Service of TIGA on January 28, 2016. (Dkt. 52.)
21 Also on January 28, Mr. Zaitlen notified me that his firm would "likely" represent
22 TIGA in this lawsuit, and his firm subsequently has assumed such representation.

23 8. With respect to Sompote, First Legal Investigations, though its
24 employees or other independent contractors in Thailand, engaged in efforts to
25 personally serve Sompote in Thailand in November and December 2015. These
26 efforts are described in Mr. Ortiz's declaration, submitted herewith, and the
27 Affidavit of Due Diligence attached to Mr. Ortiz's declaration. Ultimately, First
28 Legal Investigations was unable to locate and serve Sompote.

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1 9. In light of First Legal Investigations' difficulties in locating and serving
2 Sompote, in late November 2015 my firm engaged the assistance of a California-
3 based private investigator, Chris Reynolds, to help identify Sompote's location in
4 Thailand and serve him with the Counterclaims. Mr. Reynolds' efforts to do so are
5 described in his declaration submitted herewith, and are ongoing. It is my
6 understanding that Mr. Reynolds is optimistic that he will be able to locate Sompote
7 and have him served based on information Mr. Reynolds was recently able to obtain
8 about the location of Mr. Sompote's residence in Thailand.

9 10. In addition to working with First Legal Investigations and Mr.
10 Reynolds to attempt to locate and serve Sompote, my firm has sought the assistance
11 of the counsel to the other parties to this case. Specifically, because all opposing
12 parties to this case appear to have or have had some personal and/or business
13 relationships with Sompote (for example, it is my understanding that the principal of
14 UMC is the brother of Sompote, and that counter-defendant Ultraman USA has
15 engaged in business transactions with Sompote in the past few years), I asked their
16 counsel if they could help us identify Sompote's residence. Although counsel for
17 UMC and counsel for Ultraman USA told me that they both believe that Sompote
18 resides in Thailand, neither of them provided any more specific information about
19 Sompote's location.

20 11. On approximately December 16, 2015, my firm mailed a copy of the
21 Counterclaims, as translated in Thai, to Sompote's attention at an address in
22 Thailand that we understood at the time Sompote uses or has used in the past, so that
23 Sompote would have notice of this lawsuit and of Tsuburaya's claims against him,
24 to the extent he was not on notice already. This package was received on December
25 26, 2015. Sompote has never contacted anyone at my firm to discuss this lawsuit.
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1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct.

3 Executed on this 2nd day of February, 2016, at Los Angeles, California.

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5 /s/ Daniel C. Posner
6 Daniel C. Posner
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